

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DEANNA PRESTON,

Plaintiff,

v.

No. CIV-15-1029 SMV/LAM

COUNTY OF LINCOLN, et al.,

Defendants.

**ORDER GRANTING DEFENDANTS' MOTION
FOR PROTECTIVE ORDER [Doc. 9]**

THIS MATTER is before the Court on *County of Lincoln and Sheriff Robert Shepperd's Motion for Protective Order* (Doc. 9), filed December 1, 2015. Plaintiff filed a response on December 4, 2015 [Doc. 11], and Defendants filed a reply on December 21, 2015 [Doc. 15]. Having considered the motion, response, reply, record of the case, and relevant law, the Court **FINDS** that the motion shall be **GRANTED**.

In their motion, Defendants ask the Court to enter a protective order pertaining to discovery pursuant to Fed. R. Civ. P. 26(c)(1)(A) until the Court decides Defendants' motion to dismiss [Doc. 3]. While Plaintiff contends that discovery in this case is governed by state court rules because the case was originally filed in state court, Plaintiff provides no authority for this assertion. Federal Rule of Civil Procedure 81(c) states that: "These rules apply to a civil action after it is removed from a state court." Since Plaintiff states in his response that "[i]f the Court determines written discovery initiated under state law is controlled by federal procedures after removal, Plaintiff's counsel acknowledges a protective order may be appropriate until the initial Rule 16 Order is entered." [Doc. 11 at 3]. Therefore, since the federal rules of procedure apply

in this removed action, the Court finds that Plaintiff has consented to Defendant's motion for a protective order and the Court will grant Defendants' motion.

IT IS THEREFORE ORDERED that, for the reasons stated above, *County of Lincoln and Sheriff Robert Shepperd's Motion for Protective Order (Doc. 9)* is **GRANTED**.

IT IS FURTHER ORDERED that no discovery will be allowed in this case until the presiding judge has decided Defendants' motion to dismiss [*Doc. 3*], at which time the Court will enter a Rule 16 Scheduling Order, if necessary, or unless the parties agree to discovery, or upon further order of the Court.

IT IS SO ORDERED.



LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE